

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**DAVID A. DAY,**

**Plaintiff,**

**v.**

**Case No. 11-C-0174**

**JEFFREY S. HUGHES, MICHAEL BERTLING,  
and McLARIO, HELM & BERTLING SC,**

**Defendants,**

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**ORDER**

In an order dated April 13, 2011, I dismissed plaintiff's complaint for lack of jurisdiction; judgment was entered the same day. Plaintiff has filed a motion for reconsideration and a motion to appoint counsel, both of which are before me now.

In his motion for reconsideration, plaintiff submits that he does not understand how this court lacks jurisdiction when he believes his 14th Amendment rights were clearly violated. As I explained in my April 13, 2011, Order, I lack subject matter jurisdiction over this case because plaintiff did not bring his claims under 42 U.S.C. § 1983 and, even if he did, the named defendants are not state actors and were not acting under the color of state law, which is a requirement for a claim under § 1983. Additionally, there is no diversity among the parties to provide jurisdiction. Plaintiff's complaint was not properly brought in federal court. Nothing in plaintiff's motion for reconsideration entitles him to relief under Federal Rules of Civil Procedure 59 or 60. Therefore,

**IT IS ORDERED** that plaintiff's motion for reconsideration (Docket #12) is **DENIED**.

**IT IS FURTHER ORDERED** that plaintiff's motion to appoint counsel (Docket #13)  
is **DENIED AS MOOT**.

Dated at Milwaukee, Wisconsin, this 21st day of April, 2011.

/s \_\_\_\_\_  
LYNN ADELMAN  
District Judge